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In The

Supreme Court of the United States

October Term, 1966

No. 204

RICHARD ALLEN DOWDLE,

Appellant,

v.

PEOPLE OF THE STATE OF NEW YORK,

Appellee.

In the Matter of the Application of

MATTHEW T. HOGAN, ESQ.,

Petitioner-Appellant,

v.

GORDON HOWE, Director of Finance of the County of Monroe, New York, THE HONORABLE ARTHUR LEVITT, Comptroller of the State of New York, and JOHN C. LITTLE, District Attorney of Monroe County, New York,

Appellees.

APPEAL FROM THE COURT OF APPEALS OF THE STATE OF NEW YORK

STATEMENT AS TO JURISDICTION

JOHN MANNING REGAN, ESQ.
CORBETT, HOGAN AND REGAN,
Counsel for Appellants
Office and Post Office Address:
100 Times Square Building
45 Exchange Street
Rochester, New York 14614

Daily Record Corporation
Rochester, New York

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The Appellants, pursuant to the United States Supreme Court Rules 13(2) and 15 file this their statement of the basis upon which they contend that the Supreme Court of the United States has jurisdiction on a direct appeal to review the final judgment of conviction of appellant, RICHARD ALLEN DOWDLE, and should exercise such jurisdiction in this case.

Opinion Below

The only opinion which the Courts below gave in this proceeding came from the Court of Appeals in the form of a memorandum by that Court. That memorandum is annexed to this Jurisdictional Statement at the end.

Jurisdiction

This appeal is from a final judgment of conviction of Appellant, RICHARD ALLEN DOWDLE, for the misdemeanor crime of third degree assault, reduced from the indictment charge of the felony of first degree rape.

The final judgment appealed from was entered in the office of the Clerk of Monroe County, Rochester, New York, on January 21st, 1966. Notice of Appeal to the Supreme Court of the United States was filed that same day, January 21st, 1966. The Clerk of Monroe County, New York, is also the Clerk of the Supreme Court of Monroe County, New York, and is the person in whose custody the original records in this prosecution remain under State Law. The Notice of Appeal was filed with him and with the clerk of the Court of Appeals of the State of New York; and copies were sent to all parties by mail on January 22nd, 1966.

The Supreme Court of the United States has jurisdiction to review by direct appeal the judgment of conviction under the provisions of Title 28, U.S.C. Section 1257 (2).

The State statutes, whose validity under the 14th Amendment to the Constitution of the United States the appellant DOWDLE has attacked, are as follows:

N. Y. Code of Criminal Procedure — Section 308

". . . in a case where the offense charged in the indictment may be punished by death, or where a de-

fendant under eighteen (18) years of age at the time of the commission of the crime is indicted for such a crime which if committed by an adult might be punishable by death . . . the Court . . . may allow such counsel his personal and incidental expenses upon a verified statement thereof being filed with the Clerk of such Court, and also reasonable compensation for his services . . .

• • •

In any case in which experts may be employed as witnesses and, in case it shall appear to the satisfaction of the Court or Judge thereof that the defendant is not financially able to employ experts, . . . the Court may . . . permit the employment of an expert, or experts, not exceeding two in number at an expense in the aggregate of not exceeding the sum of One Thousand Dollars ($1,000.00). Allowances under this section shall be a charge upon the County in which the indictment in the action is found . . .

N. Y. County Law, Section 718

. . . Nothing contained herein shall preclude a court on its own motion, or upon application of the Public Defender or by the indigent defendant, from appointing an attorney other than the Public Defender to represent such defendant . . . If such attorney is appointed, *he shall serve without compensation unless such compensation is otherwise provided for by law.*" (Emphasis added)